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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/976,432	10/11/2001	Gerd Bautz	112740-338	1026
29177	7590	10/27/2004	EXAMINER	
BELL, BOYD & LLOYD, LLC			CAO, CHUN	
P. O. BOX 1135			ART UNIT	
CHICAGO, IL 60690-1135			PAPER NUMBER	
			2115	
DATE MAILED: 10/27/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/976,432

Applicant(s)

BAUTZ ET AL.

Examiner

Chun Cao

Art Unit

2115

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,10,11,14 and 16-19 is/are rejected.
- 7) ☒ Claim(s) 3-9,12,13 and 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>4/15/03, 11/17/03, 2/2/04</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. Claims 1-19 are presented for examination.
2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The current title is imprecise.
3. The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
5. Claims 5-7 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Applicant(s) do not detail how to store the program commands via the bootstrap memory unit, even in the event of failure of a supply voltage for the memory unit; and set the storage capacity of the bootstrap memory unit to be less than 256 kilobytes; and erasing via the main memory unit, its stored program

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commands in the event of failure of a supply voltage for the memory unit. Such that the manner and process of making and using the invention that corresponds in the scope of the claimed invention to one of ordinary skill in the pertinent technology, without undue experimentation, and dealing with subject matter that would not already be known to the skilled person as of the filing date of the application.

The examiner submits that it would require undue experimentation for one of ordinary skill in the art to make and use the invention for the reasons set forth hereinabove. Applicants are reminded that no new matter is allowed in the amendment to the specification under 35 U.S.C. 132 and 37 CFR 1.118(a).

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 recites the limitation "the user" in line 5. There is insufficient antecedent basis for those limitations in the claim.

***Claim Rejections - 35 USC § 102***

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8. The following is a quotation of the appropriate paragraphs of 35

U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1, 2, 14, 16 and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Gibson et al. (Gibson), U.S. patent no. 6,601,167.

As per claim 1, Gibson a process for starting a data processing installation, the process comprising the steps of:

storing program commands of a bootstrap program in a bootstrap memory unit [col. 3, lines 21-34; col. 13, line 26];

controlling transfer of the program commands, via a processor when executing the bootstrap program, from a reload memory unit [hard drive] to a main memory unit [col. 5, lines 9-19, 55-65]; and

starting execution of the program commands, stored in the main memory unit during the transfer operation, after the transfer operation and via the processor [col. 5, lines 9-19, 55-65];

wherein at least one of the bootstrap memory unit and the reload memory unit is one of a serial-access memory unit [EEPROM, col. 3, lines 23-26] and a

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memory unit which requires a plurality of read access operations [hard drive] in order to read a program command for the processor [col. 5, lines 38-65].

As per claim 2, Gibson teaches of a process for starting data processing installation as claimed in claim 1, the process further comprising the steps of: transferring, during the transfer operation, the program commands of the bootstrap program from the bootstrap memory unit to the main memory unit using a control circuit; starting execution of the program commands, via the processor and after the bootstrap transfer operation, transfer to the main memory unit during the bootstrap transfer operation; and executing a reload transfer operation, via the processor, in order to transfer the program commands from the reload memory unit to the main memory unit [fig. 1; col. 5, lines 9-65].

As to claim 14 basically are the corresponding elements that are carried out the method of step of operating steps in claim 1. Gibson teaches the claimed method of steps. Therefore, Gibson teaches the claimed system to carry out the method of steps. Accordingly, claim 14 is rejected for the same reason as set for claim 1.

As to claim 16 basically are the corresponding elements that are carried out the method of step of operating steps in claims 1 and 2. Gibson teaches the claimed method of steps. Therefore, Gibson teaches the claimed circuit arrangement to carry out the method of steps. Accordingly, claim 16 is rejected for the same reason as set for claims 1 and 2.

As per claim 17 is contained the same limitations as claim 1. Therefore, the same rejection is applied.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gibson et al. (Gibson), U.S. patent no. 6,601,167 as applied to claim 1 above, and further in view of Chaiken (Chaiken). US patent no. 6,128,732.

As per claim 11, Gibson fails to teach of compression processing of the system.

Chaiken teaches that compressing the program command stored in the reload memory unit using a compression process; storing a decompression process in one of a portion of the program commands in the bootstrap memory unit and an uncompressed portion of the program commands in the reload memory unit; and compressing the compressed program commands when the program commands for the decompression process are executed [col. 7, lines 1-21].

It would have been obvious to one of ordinary skill in the art at time the invention to combine the teachings of Gibson and Chaiken because they both teach of initializing a system, the specify teachings of Chaiken stated above

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would maximize the storage space of Gibson system by storing the compressed program in the memory unit.

12. Claims 17-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Aguilar et al. (Aguilar), U.S. patent no. 6,785,807.

As per claim 17, Aguilar discloses a memory unit, formed as one of a serial-access memory unit and a memory unit which requires a plurality of read access operations in order to read a program command stored in it, the memory unit used for program commands in a start operation for a data processing installation [fig. 1; col. 4, lines 58-67; col. 5, lines 56-67; col. 6, lines 42-48].

As per claim 18, Aguilar discloses that the memory unit is accessed based on an instruction protocol [col. 2, line 67-col. 3, line 8].

As per claim 19, Aguilar discloses the memory unit is a Compact Flash card [262, fig. 1].

#### ***Allowable Subject Matter***

13. Claims 3-9, 12, 13, 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

14. Claims 5-7 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.



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15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Aguilar et al., US patent no. 6,272,628 discloses a compact flash card storing a boot code [fig. 1; col. 10, lines 34-56].

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

Hand-delivered responses should be brought to Crystal Park II,

2121 Crystal Drive, Arlington. VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chun Cao at 571-272-3664. The examiner can normally be reached on Monday-Friday from 7:30 am - 4:00 pm. If attempts to reach the examiner by phone are unsuccessful, the examiner's supervisor Thomas Lee can be reached at 571-272-3667. The fax number for this Art Unit is following: Official (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is 571-272-2100.



Chun Cao

Oct. 25, 2004